

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
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Case No. 138 of 2015

Date: 26 September, 2017

**CORAM: Shri. Azeez M. Khan, Member
Shri. Deepak Lad, Member**

In the matter of

Petition filed by RattanIndia Power Limited under Section 86 (1) (f) of the Electricity Act, 2003 read with Articles 4, 8 and 11 of the Power Purchase Agreements dated 22.04.2010 and 05.06.2010 for adjudication of claims and seeking directions to MSEDCL to open Letter of Credit and to make payment of Rs.558 crore outstanding as on 17.10.2015 towards supply of electricity.

RattanIndia Power Limited (RPL) ...Petitioner
V/s
Maharashtra State Electricity Distribution Company Limited (MSEDCL) ...Respondent

Advocate for the Petitioner:
Advocate for the Respondent:

Adv. Vishrov Mukerjee
Adv. Ashish Singh

Daily Order

1. Heard the Advocates of Petitioner and Respondent.
2. Advocate of Petitioner stated that
 - a. During the last hearing, the Commission had given two weeks' time for both the parties to sit together and resolve the disputes and to approach the Commission with the outcome of such discussion.
 - b. In pursuance of the directions of the Commission, a meeting was held on 14.9.2017, the minutes of which are received from MSEDCL only yesterday.
 - c. Out of 7 issues that came up for discussion, MSEDCL agreed on the following issues.
 - (i) Late Payment Surcharge (LPS) (Sr. No. 3 of the MoM), as against the claim of Rs. 298.93, MSEDCL agreed to Rs. 102.11 crore.
 - (ii) Contract year penalty and deemed capacity (Sr. No. 5 of the MoM) entire claim of Rs. 37.5 crore is settled by MSEDCL.

- (iii) Deemed Capacity Charges (Sr. No. 6 of the MoM) entire claim of Rs.13.14 crore is settled by MSEDCL.
- d. As regards the RPL claims which are not acceptable to MSEDCL, RPL will submit details of the claim amount and supporting arguments in that regard. The claims are as under:
- (i) Capacity Charge for deemed generation (Sr.No.1 of MoM)
 - (ii) CCEA (NCDP) billing (Sr. No. 2 of MoM)
 - (iii) LPS billing (Sr. No.3 of MoM) some of the claim is withheld because of the lower interest rate sought by MSEDCL from the Commission in Case No. 24 of 2017.
 - (iv) Change in Law billing (Sr. No.4. of MoM) MSEDCL has recovered Rs.22.45 crore on account of FAC which was disallowed by the Commission.
- e. RPL is facing financial difficulties due to outstanding payments pending with MSEDCL. With regards to the amount which is not disputed by MSEDCL, the Commission may direct it to release the payment as soon as possible as funds are required to purchase coal and ensure the availability of the Plant.
- f. He referred to Article 8.3.3 (ii) of the PPAs, which deals with payment of monthly bills and includes any deduction or set-off. MSEDCL should follow the principle laid down in this Article while making payment.
- g. There should be certainty of the revenue stream for the healthy operation of the Generation Plant.
3. Advocate of Respondent stated that
- a. MSEDCL has agreed on Issue No. 3, 5 and 6 of the MoM dated 14.09.2017
 - b. RPL has filed this Petition way back in 2015, and after that various claims and disputes were raised. It does not deal with the bifurcated claims as have now been brought out. MSEDCL will file an affidavit its response to RPL's submission on the claims when it is received. MSEDCL would like to exercise its rights under the provisions of Article 8.3.3 (ii) of the PPA governing disputes.
4. The Commission directed MSEDCL to pay the undisputed amounts to RPL within one month.
5. The Commission gives one week's time to RPL to file its affidavit regarding the disputed claims to which MSEDCL may file its Response in two weeks thereafter.

The next date of hearing will be communicated to the parties by the Secretariat of the Commission.

**Sd/-
(Deepak Lad)
Member**

**Sd/-
(Azeez M. Khan)
Member**